



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 1
5 POST OFFICE SQUARE, SUITE 100
BOSTON, MA 02109-3912

July 25, 2016

Ms. Kim Damon-Randall
Assistant Regional Director, Protected Resources
National Marine Fisheries Service
55 Great Republic Drive
Gloucester, MA 01930
Re: Proposed Federal Water Quality Standards Applicable to Maine.

Dear Ms. Damon-Randall:

The U.S. Environmental Protection Agency (EPA) is currently engaged in an informal consultation with the National Marine Fisheries Service (NMFS) under Section 7 of the Endangered Species Act of 1973 (ESA) for the promulgation of certain federal water quality standards (WQS) for aquatic life applicable to waters under the state of Maine's jurisdiction. On April 20, 2016, EPA published a proposed rule in the Federal Register for the promulgation of these WQS. The proposed WQS can be found at the following link:
<https://www.federalregister.gov/articles/2016/04/20/2016-09025/proposal-of-certain-federal-water-quality-standards-applicable-to-maine>.

This letter is to request ESA concurrence from NMFS for the promulgation of the WQS as proposed. EPA has made the determination that such promulgation activity may affect, but is not likely to adversely affect, any species listed as threatened or endangered by FWS under the ESA. Attached is a Biological Assessment (BA) for the proposed standards.

EPA proposed, and intends to promulgate in the same form, several WQS for waters in Indian lands in Maine: tidal temperature, pH, and ammonia criteria to protect aquatic life; and a mixing zone policy. EPA also proposed, and intends to promulgate in the same form, dissolved oxygen criteria for Class A waters to protect aquatic life for all waters in Maine, including waters in Indian lands. These WQS take into account the best available science, including local and regional information, as well as applicable EPA policies, guidance, and legal requirements, to protect aquatic life.

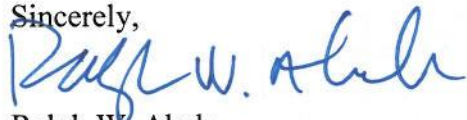
EPA is promulgating these WQS to address various disapprovals of Maine's standards that EPA issued in February, March, and June 2015. EPA issued these disapprovals in response to a suit brought by Maine to compel EPA to act on the state's WQS as they apply to waters in Indian lands. The Clean Water Act requires EPA to promptly propose, and ninety days thereafter to promulgate, federal WQS to remedy such disapprovals unless the state adopts and EPA approves protective WQS.

The BA addresses the proposed action in compliance with Section 7(c) of the ESA of 1973, as amended. Section 7 of the ESA assures that, through consultation (or conferencing for proposed species) with NMFS and the U.S. Fish and Wildlife Service (FWS) Fisheries Service) that federal actions do not jeopardize the continued existence of any threatened, endangered or proposed species, or result in the destruction or adverse modification of critical habitat. The BA evaluates the potential effects that the proposed aquatic life criteria may have on federally protected species, specifically Atlantic salmon (*Salmo salar*), Atlantic sturgeon (*Acipenser oxyrinchus oxyrinchus*), and shortnose sturgeon, (*A. brevirostrum*), and the Critical Habitat for Atlantic salmon.

EPA concludes that, though promulgation of the proposed WQS may affect the listed species, they are unlikely to adversely affect the species. EPA seeks NMFS concurrence that the promulgation of the proposed WQS is unlikely to adversely affect the species.

Please contact me at (617) 918-1629 or Jeanne Voorhees at (617) 918-1686 if you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ralph W. Abele".

Ralph W. Abele
Chief, Water Quality Branch
Office of Ecosystem Protection
EPA Region 1

cc.

USFWS, Maine Field Office
Attachments